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# HOUSE BILL No. 1047

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 1-1-4-5; IC 36-4-3-13.

**Synopsis:** Definition of autism. Defines "autism" as a neurological condition for purposes of construction of all Indiana statutes. Removes a defined term that is never used elsewhere in the Indiana Code. Makes a conforming amendment.

**Effective:** July 1, 2001.

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January 8, 2001, read first time and referred to Committee on Human Affairs.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1047

A BILL FOR AN ACT to amend the Indiana Code concerning general provisions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 1-1-4-5 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2001]: Sec. 5. The following definitions apply  
3 to the construction of all Indiana statutes, unless the construction is  
4 plainly repugnant to the intent of the general assembly or of the context  
5 of the statute:

6       (1) "Adult", "of full age", and "person in his majority" mean a  
7 person at least eighteen (18) years of age.

8       (2) "Attorney" includes a counselor or other person authorized to  
9 appear and represent a party in an action or special proceeding.

10       (3) **"Autism" means a neurological condition as described in**  
11 **the most recent edition of the Diagnostic and Statistical**  
12 **Manual of Mental Disorders of the American Psychiatric**  
13 **Association.**

14       (4) "Bond" does not necessarily imply a seal.

15       ~~(4)~~ (5) "Clerk" means the clerk of the court or a person authorized  
16 to perform the clerk's duties.

17       ~~(5)~~ (6) "Health record", "hospital record", or "medical record"



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means written or printed information possessed by a provider (as defined in IC 16-18-2-295) concerning any diagnosis, treatment, or prognosis of the patient, unless otherwise defined. Except as otherwise provided, the terms include mental health records and drug and alcohol abuse records.

~~(6)~~ (7) "Highway" includes county bridges and state and county roads, unless otherwise expressly provided.

~~(7)~~ (8) "Infant" or "minor" or "person in his minority" **mean means** a person less than eighteen (18) years of age.

~~(8)~~ (9) "Inhabitant" may be construed to mean a resident in any place.

~~(9)~~ (10) "Judgment" means all final orders, decrees, and determinations in an action and all orders upon which executions may issue.

~~(10)~~ (11) "Land", "real estate", and "real property" include lands, tenements, and hereditaments.

~~(11)~~ (12) "Mentally incompetent" means of unsound mind.

~~(12)~~ (13) "Money demands on contract", when used in reference to an action, means an action arising out of contract when the relief demanded is a recovery of money.

~~(13)~~ (14) "Month" means a calendar month, unless otherwise expressed.

~~(14)~~ (15) "Oath" includes "affirmation", and "to swear" includes to affirm.

~~(15)~~ (16) "Person" extends to bodies politic and corporate.

~~(16)~~ (17) "Personal property" includes goods, chattels, evidences of debt, and things in action.

~~(17)~~ (18) "Population" refers to the population according to the most recent federal special or decennial census, special tabulation, or corrected population count effective under IC 1-1-3.5. This definition applies even if the reference is to the most recent federal decennial census.

~~(18)~~ (19) "Preceding" and "following", referring to sections in statutes, mean the sections next preceding or next following that in which the words occur, unless some other section is designated.

~~(19)~~ (20) "Property" includes personal and real property.

~~(20)~~ (21) "Sheriff" means the sheriff of the county or another person authorized to perform sheriff's duties.

~~(21)~~ (22) "State", applied to any one of the United States, includes the District of Columbia and the commonwealths, possessions, states in free association with the United States, and the territories. "United States" includes the District of Columbia and

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the commonwealths, possessions, states in free association with the United States, and the territories.

~~(22)~~ **(23)** "Under legal disabilities" includes persons less than eighteen (18) years of age, mentally incompetent, or out of the United States.

~~(23)~~ **(24)** "Verified", when applied to pleadings, means supported by oath or affirmation in writing.

~~(24)~~ **(25)** "Will" includes a testament and codicil.

~~(25)~~ **(26)** "Without relief" in any judgment, contract, execution, or other instrument of writing or record, means without the benefit of valuation laws.

~~(26)~~ **(27)** "Written" and "in writing" include printing, lithographing, or other mode of representing words and letters. If the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

~~(27)~~ **(28)** "Year" means a calendar year, unless otherwise expressed.

~~(28)~~ **(29)** The definitions in IC 35-41-1 apply to all statutes relating to penal offenses.

SECTION 2. IC 36-4-3-13, AS AMENDED BY P.L.217-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the

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aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria. However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the fiscal plan of a city must show that these services will be provided to the annexed territory within four (4) years after the effective date of the

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annexation and in the same manner as those services are provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, or population density.

(e) This subsection does not apply to a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less

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than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The federal census data established by ~~IC 1-1-4-5(17)~~ **IC 1-1-4-5(18)** shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

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